

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**ORIX FINANCIAL SERVICES, INC., a  
New York corporation,**

**Plaintiff,**

**V.**

**EARNEST CHAPMAN, an individual,**

**Defendant.**

**CASE NO. 05-CV-01233-MEF**

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**PLAINTIFF'S RESPONSE TO COURT'S SHOW CAUSE ORDER**

COMES NOW, Orix Financial Services, Inc., the Plaintiff, by and through legal counsel and responds to the Court's order to prosecute or show cause, June 25, 2004, as follows:

1. A complaint and motion for prejudgment seizure was filed with the United States District Court, Middle District of Alabama in this matter, December 28, 2005 (ECF Doc. 1) and summons was mailed to all Defendants, April 4, 2004, by first class, certified mail, restricted delivery (ECF Doc. 2).

2. A hearing on the prejudgment seizure was scheduled, January 18, 2006 at 03:00 PM. The court issued an order allowing the Plaintiff possession and other relief, January 19, 2006 (ECF Doc. 11). The remaining issue in this matter was the assessment and amount of any deficiency balance on the debt owed by the Defendant.

3. The Defendant joined issue and filed an answer, February 13, 2006 (ECF Doc. 12).

4. The parties met and prepared a Fed. R. Civ. P. Rule 26 (f) report, March 10, 2006 (ECF Doc. 14).

5. The Plaintiff subsequently filed a motion for summary judgment, August 29, 2006 (ECF Doc. 16).

6. The Court entered an order, August 30, 2006 (ECF Doc. 17) establishing a motion submission deadline of September 21, 2006 and a deadline for response to the motion for summary judgment, September 14, 2006 for the defendant. However, the Defendant failed or refused to respond to the Plaintiff's motion for summary judgment, and pursuant to the order on summary judgment, the motion was considered submitted without oral argument.

7. With the motion for summary judgment remaining unanswered and before the court awaiting disposition, the Plaintiff failed to timely observe the deadline for face to face mediation.

8. Realizing that it had missed this deadline, the Plaintiff made every effort to coordinate a face to face meeting with counsel for the Defendant.

9. A notice of counsel meeting and mediation was filed October 13, 2006 (ECF Doc. 19).

WHEREFORE, in that the Plaintiff has filed a notice of counsel meeting and mediation, the Plaintiff respectfully requests this Honorable Court allow the above-referenced case to proceed as provided by the Federal Rules of Civil Procedure, and as may be further ordered by the Court.

Respectfully submitted on this the 17<sup>th</sup> day of October 2005.

Memory & Day

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the foregoing document on the following, by:

- ☒ placing same in the United States Mail, postage prepaid, and properly addressed
- ☐ facsimile
- ☐ hand delivery
- ☐ delivered in open court

on October 17, 2006.

Harry Long, Esq.  
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/S/ James L. Day  
James L. Day